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Defense lawyers, officer tangle at trial of Tafoya

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FORT COLLINS. — Police Detective Ray Martinez found himself on the hot seat twice Thursday — because he criticized the judge in the Eugene Tafoya trial and because he gave away key evidence in the case.

Attorneys defending Tafoya on the attempted murder charge here condemned the 29-year-old detective for comments he made about District Judge J. Robert Miller. Claiming Martinez had shown "the utter contempt he had for the court," attorney Walter Gerash asked Miller to poll the jury to see if they had seen Martinez's well-publicized comments.

In any case, Gerash asked Miller to sequester the jury for the rest of the trial.

Martinez made his controversial comments after Miller suppressed evidence allegedly linking Tafoya to mercenary missions. The detective, in a series of short chats with reporters, questioned Miller's judgment. He said Miller had "crippled the prosecution."

Miller denied Gerash's motion to sequester the jury, but said he would listen to Martinez's comments, which were broadcast Wednesday evening on network television news programs.

He didn't indicate what action he might take because of the incident.

During the afternoon session of the trial, Martinez again came to center stage. From the witness stand, Martinez tried to explain why he had returned a gun found hidden at the shooting scene to the victim before the defense could examine it. The gun is significant because the defense is claiming the victim instigated his own shooting by pulling the gun on Tafoya.

Tafoya is being tried here for attempted first-degree murder and conspiracy in the Oct. 14, 1980, shooting of Libyan dissident Faisal Zagallai.

Prosecutors allege the shooting was part of a

master plot by the Libyan government to silence opposition.

The defense counters that Tafoya was working for the CIA when he visited Zagallai's apartment to tell the Libyan to tone down anti-Zionist broadcasts he allegedly had made to the Middle East. They suggest Zagallai started the gunplay.

Martinez complained bitterly about Miller's decision to suppress the two pieces of evidence allegedly linking Tafoya to CIA operative Edwin P. Wilson. Wilson has become an agent for the Libyan government, allegedly supplying arms to terrorists employed by Libyan leader Col. Moammar Khadafy.

A tape recording recovered in the search of Tafoya's Ford Bronco supplies the Wilson link. Tafoya is heard soliciting a job as a mercenary from a Wilson employee and is heard talking about the firebombing of a car belonging to an enemy of Wilson's.

Miller ruled that incident doesn't belong to the Fort Collins case.

Martinez said it did. "I don't know where the judge is coming from," he said. Complaining that the case had been "devastated," Martinez said the tape clearly showed that Tafoya was available for hire as a killer.

In making a motion to poll the jurors to see whether they had heard Martinez's statements, Gerash characterized those comments as "reprehensible."

Gerash and Martinez clashed again over the issue of the returning to Zagallai of his gun. The gun was the only one found at the scene of the shooting and the defense argued it should have been checked for Tafoya's fingerprints. They allege that Zagallai pulled the gun first and that Tafoya pushed it away.

The gun was back in court Thursday, having been returned after a 12-month hiatus.

Martinez's cross-examination will resume Friday.